

**CITY OF GLOUCESTER**  
**PLANNING BOARD**  
**MEETING MINUTES**  
**March 3, 2016**  
**7:00 P.M.**  
**Kyrouz Auditorium**  
**9 Dale Ave, Gloucester**  
**Richard Noonan, Chair**

Members Present: Rick Noonan-Chair, Mary Black- Vice Chair, Henry McCarl, Doug Cook, Joe Orlando, Shawn Henry, Ken Hecht- **Absent**  
Staff: Gregg Cademartori, Planning Director, Matt Coogan, Senior Planner  
City Councilors Present: Sean Nolan, Scott Memhard, Joe Ciolino, Paul McGeary

Mr. Noonan opened the meeting at 7:06 pm.

**I. BUSINESS**

A. Review of Planning Board Minutes of January 7, 2016 and February 18, 2016

Motion to approve the Planning Board minutes of January 7, 2016 was made by Mr. Mc Carl, seconded by Mr. Cook and unanimously approved. Mr. Henry abstained.

Motion to approve the Planning Board minutes of February 18, 2016 was made by Mr. McCarl, seconded by Ms. Black and unanimously approved. Mr. Henry abstained.

B. Public Comment

Mark Delvechhio 11 Tragabigzanda rd

Mr. Delvechhio represented Save Our shores Gloucester regarding the Soones Court Project

Mr. Delvechhio read rules, regulations, and zoning requirements to the board stating that in almost every capacity the project does not comply. In addition he reiterated that public health and safety were at stake, the application was incomplete and inaccurate. He finished by saying that the project will be fought every step of the way.

**II. CONSENT AGENDA**

In accordance with MGL Chapter 41 and Section 3.1 of the Rules and Regulations Governing the Subdivision of Land, City of Gloucester, the Planning Board to review the Preliminary Subdivision Plan for Soones Court submitted by Cheryl D. Soones at **166 – 178 Atlantic Road (Assessors Map 73 Lot 32, and Map 76 Lots 3, 4, and 5)**. *Continued Preliminary Subdivision Review from January 7, 2016.*

Bob Griffin, Griffin Engineering, 495 Cabot Street Beverly

Mr. Griffin gave the city an opportunity to review proposal and the goal was to receive feedback on the project.

Mr. Cadematori made it clear to the public that this was an elective process on the part of the applicant to gauge response from the Planning Board in terms of direction before a definitive plan is submitted. A site visit was held and the proposal has been sent to other city departments for review. Since it is a preliminary plan, the engineering department did not have much to review and there is not a lot of feedback from them. There are issues with the lot layout being in compliance with the zoning ordinance, whether the plan constitutes a subdivision itself and the elevation of the roadway. The intention of a subdivision is to create buildable lots.

Mr. Henry stated whether it's a subdivision or ANR does not matter. The major issue is the definitive prohibition against creating these lots. In Section 3.2 -not more than 25% can be inundated with front water and these lots as they exist now whether it's a subdivision or ANR are 100% in the flood and V zone. Any question beyond that is a moot point.

Mr. McCarl concurred with Mr. Henry regarding Section 3.2 and added the public safety factor is equally important.

Mr. Orlando stated he has had trouble understanding how this proposal could ever work in this location and for the safety of the citizens of the city it is not a workable plan. He stated he will vote no.

Mr. Cook concurred with Mr. Orlando.

Ms. Black also concurred with the other board members stating that the plan has deficits in technical areas.

**Motion; Planning Board in compliance with applicable law and ordinance cast a No vote on the construction on the Soones property as presented. Mr. McCarl seconded.**

**Mr. Noonan amended the motion: "the denial of the preliminary of the subdivision plan issued for the Soones Court parcel on the grounds of lack of information provided. Mr. Mc Carl seconded the motion and it was unanimously approved.**

### **III. PUBLIC HEARING**

In accordance with MGL Chapter 41 and the Planning Board's Rules and Regulations Governing the Subdivision of Land in Gloucester, the Planning Board shall review a Definitive 3-Lot Subdivision Plan for the land located at **4 – 6 Eastern Point Boulevard** (Assessors Map 133 Lots 10 and 26) submitted by Jan Bordinaro.

Attorney Joel Favazza, 111 Main St., Gloucester

Mr. Favazza stated that he is seeking an approval for a 3 lot subdivision known as Daventry Lane. It is a small subdivision and almost qualifies as a Court. 2 waivers are being sought. One is for the Right of Way width and the other is for sidewalk installation. The 96000 square feet will be for 3 lots. The proposal has been vetted by Engineering and the DPW. An easement area will be installed so city service vehicles can park and service a wastewater pump station. The Conservation Commission has issued an order of conditions for the roadway and one house lot. Mr. Favazza explained to the Board why it is a Lane opposed to a Court. He stated that Courts only allow for single family homes and given the location and size of the lots the owner does not want to eliminate the option for duplex construction. It meets or exceeds the Court criteria but does not quite have the requirements for a Lane. A waiver is being sought for these requirements. The proposal includes a 30 foot Right of Way with 20 feet of pavement servicing three lots that would restrict it to single family construction. It will be wider than a Court and complies with the pavement requirement for a Lane. The 2<sup>nd</sup> waiver is for a sidewalk; a Lane requires a sidewalk on one or both sides. In this proposal, installing sidewalks is not going to affect pedestrian safety. The foot traffic will be mostly in the summer when visibility high. There is no existing sidewalk to tie into. This plan does require having 5 feet of grass on either side.

Attorney Favazza replied to a letter of opposition that was submitted to the Board stating that there were some misstatements. He stated that the proposal is not restricted by neighboring zoning and are bound by R10 and R20 guidelines. Requests were made to restrict style and design and are not part of the subdivision process.

Mr. Cademartori asked for clarification of why the lot line has to be changed with regards to frontage. Attorney Favazza explained that when lots exist in more than one zoning district the lot's frontage is based on which district the frontage lies in and has to comply with the requirements of the more restrictive district. This includes frontage. The applicant intends to adjust the lot lines so that the frontage of lot 1 is entirely within the R10 district and would have to conform to R10 frontage requirements. The subdivision is concerned with the lots being created comply with the zoning districts where they sit. There are two different zoning schemes applied to the lots, but each lot complies with the zoning requirements.

Mr. Coogan stated that the application has been disturbed to all departments for review. The Board of Health will be taking up the plan in April. The board should consider setting up a site visit.

**Public Comment:**

**In favor- None**

**Against**

Lillian Olmstead

Ms. Olmstead stated that there is a sidewalk to tie into and it is important to have one on the site. When cars are coming both ways it is very busy and is an issue for public safety. She also stated that it should be a Court not a Lane. Allowing a duplex will over build the area and affect its aesthetics.

Julia Daily, 8 Eastern Point Blvd

Ms. Daley concurred with Ms. Olmstead's comments stating that that it should be a Court, 3 single family homes would be sufficient and was also concerned with traffic in the summer

The Board scheduled a site visit for March 11 at 7:30 a.m.

**Motion to continue the review of a Definitive 3-Lot Subdivision Plan for the land located at 4 – 6 Eastern Point Boulevard (Assessors Map 133 Lots 10 and 26) submitted by Jan Bordinaro to April 21, 2016 was made by Mr. Henry, seconded by Mr. McCarl and unanimously approved.**

In accordance with the provisions of MGL Chapter 40A, Section 5, and the Gloucester Zoning Ordinance, Section 1.11, the Gloucester Planning Board shall consider the following petition to amend to the Zoning Ordinance as follows:

Amend the Gloucester Zoning Ordinance by revising Section 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" by striking "licensing" from 5.27.2; adding regulations 5.27.3 through 5.27.10; adding a "Medical Marijuana Cultivation Facility" definition to Section 6; and cross referencing " Medical Marijuana Cultivation Facility and Medical Marijuana Treatment Center" with Section 5.7.1.

Mr. Coogan stated in 2013 the Board voted to recommend 5.27 in its entirety to the City Council, but during the process there was a grammatical error in the version that was passed by the City Council. This public hearing is to correct the error. The City solicitor recommends removing the word licensing since this is special permitting process not a licensing process. The board may approve the amendment as is.

Public comment:

Attorney Joel Favazza, Seaside Legal Solution, 111 Main St. Gloucester

Attorney Favazza stated he is representing Happy Valley Ventures who intends to submit an application to open a cultivation and dispensary facility in the Blackburn Industrial Park and would applying under what language is passed. The construction of a dispensary and cultivation facility is a huge financial undertaking and there should be some assurance that Gloucester is a viable place to open this type of business. It is a state sanctioned legal business and want to make sure that the zoning ordinance treats this business as a business member of the community and not like a threat to the community. Some of the language in the amendment duplicates work that is already done at the state level. There seems to be

confusion of the purpose. This is a zoning ordinance to allow special permits. These are use permits for a piece of land. The three main issues of the amendment language as proposed;

- 5.27.4 - the criminal background check- the Department of Public Health already does the check. This section should be removed in its entirety since the state does the checks thoroughly.
- 5.277- Signage- the language is vague and should be further defined
- Annual renewal requirement. It is the only annual renewal process in the ordinance for a use permit with the exception of an in-law apartment. The in-law apartment only requires that a letter be submitted stating that it is still an in-law apartment. Annual reporting is required also by some businesses. The proposed amendment as written puts the applicant through the permitting process annually. No other business has to do. It is not needed as there is an annual licensing process at the state level.

The board is looking at the zoning not the licensing. The use permit should not have to be reissued every year. No other business is required to do this.

Sam Tracy- -357 Highland Somerville- ForeFront Ventures

Mr. Tracy provided the board with a power-point presentation explaining the state requirements and procedure in obtaining and keeping a medical marijuana license- state requirements.

Mr. Cademartori asked when the background check was done by the state.

Mr. Tracy explained that the background check is done by the state before it even reaches the local process

Mr. McCarl asked how many states have legalized marijuana.

Mr. Tracy stated that 23 states have operating dispensaries.

Mr. Orlando stated that the city may want to have a local annual review to ensure the state did its job. There have been process failures on state reviews in other situations.

Mr. Henry stated that he felt an annual review is unnecessary and is not done for any other business in the city. It is not in the city's purview.

Ms. Black asked what the positions of other departments were on the issue.

Mr. Cademartori stated that there was a lot of skepticism at first and the city was not happy that the moratorium could not be kept. People in the community and state need this product and from that aspect there was support for it. He agreed with Mr. Favazza that there is a dual process and believes that something could be framed as a check in instead of an annual review.

Ms. Black stated she was hesitant to relinquish any local reviews to the state and concurred with Mr. Orlando. A process would have to be created.

Mr. McCarl also concurred with Mr. Orlando.

Mr. Noonan stated that something can be drafted to not give up local control, but not hinder the business on an annual basis. It is also important to temper the revocation concern by having probationary language drafted.

Mr. Henry stated that the city already has the processes in place to deal with issues as they come up and this should be looked at as a permitting process. The state licenses the facility. No need for the applicant to come back yearly for a special permit.

Attorney Favazza stated that as written the ordinance says the permit is no longer valid after 1 year.

Mr. Henry stated that the local authorities already have the authority to go in and check on the facility. It does not have to part of the zoning regulations.

Mr. Orlando stated he would like to hear from the police chief suggestions on how to change or modify the language.

Motion to continue the Public Hearing to Amend the Gloucester Zoning Ordinance by revising Section 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" by striking "licensing" from 5.27.2; adding regulations 5.27.3 through 5.27.10; adding a "Medical Marijuana Cultivation Facility" definition to Section 6; and cross referencing "Medical Marijuana

Cultivation Facility and Medical Marijuana Treatment Center” with Section 5.7.1. to March 17, 2016 was made by Mr. McCarl, seconded by Mr. Cook and unanimously approved.

**IV. OTHER BUSINESS**

A. Continued discussion of 2014 Harbor Plan recommendations

Mr. Cadematori updated the board on the regarding a recent Harbor CBC meeting. Discussed was funding for DPA properties and impact of FEMA flood plains on construction in a DPA area, parking issues. He stated that more cross referencing has to be done for a recommendation to the City Council.

B. CPA Update

Mr. McCarl reported that 25-30 preliminary applications have been received.

**V. NEXT MEETING**

*Next regular meeting of the Planning Board March 17, 2016*

**Planning Board Members: *If you are unable to attend the next meeting please contact the Planning Office at (978)281-9781.***